



San Francisco Bay Regional Water Quality Control Board

February 12, 2013
File No. 43S0004 (MS)

Advanced Micro Devices
Attn: Mr. Do Cao (do.cao@amd.com)
1 AMD Place
Sunnyvale, CA 94088

Subject: Requirement for Indoor Air Sampling and Analysis Work Plan for the former Advanced Micro Devices Site at 901/902 Thompson Place, Sunnyvale, Santa Clara County

Dear Mr. Cao:

This letter requires Advanced Micro Devices (AMD) to submit a work plan for conducting indoor air sampling and analysis (Work Plan) at the subject site. This information will help Regional Water Board staff evaluate if volatile organic compound (VOC) vapor intrusion is occurring into the building at the site and select a remedy to mitigate the vapor intrusion, if necessary.

Background

The Regional Water Board regulates the site under Order No. 91-102 (Order). The last five-year review report for the site dated September 30, 2009, recommended AMD conduct indoor air and soil vapor sampling to further assess the vapor intrusion pathway.

Work Plan Requirement

AMD is required to submit a Work Plan by March 11, 2013. The Work Plan shall propose work necessary determine if vapor intrusion is causing unacceptable health risks at the onsite building, and if so, shall propose effective mitigation measures. The Work Plan should address the following items:

- a) For the existing building within the former source area, the indoor air and soil vapor sampling history, and current use and occupancy, where known;
- b) Building survey results on chemical use, operations, and current and historical facility and property information;
- c) Building subsurface conditions and features, including potential pathways for subsurface vapor intrusion;
- d) Summary of relevant previous data collected at and near the building (e.g., groundwater, soil gas, sub-slab soil gas, crawlspace, pathway samples);
- e) Building layout and the proposed indoor air sampling locations;
- f) Project team organization, roles, responsibilities, and contact information;
- g) Indoor air data quality objectives;
- h) Methods to be used for evaluating current indoor air ventilation system (e.g., HVAC) operations, and identifying potential pathways for vapor intrusion;

JOHN MULLER, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

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- i) Laboratory and field methodologies and analytical methods to be utilized;
- j) Methods to be used in determining whether the indoor air contaminant concentrations are attributable to subsurface former source area contamination or other sources, such as consumer products or outdoor background air sources;
- k) Description of presumptive interim vapor intrusion mitigation measures that may be taken if sampling or other conditions indicate such measures are necessary. These measures will be consistent with future response actions to be taken and reporting process after those measures have been taken;
- l) Data Management and Reporting Plan including: (1) discussion of how historical data and future data will be organized, managed, and reported; (2) description of graphical presentation of relevant data, including analytical sampling data, quality assurance/quality control data, and multiple lines of evidence information; (3) description of reporting format for reports and distribution list of electronic and hardcopy submittals to Regional Water Board, US EPA, and the property/building owner; and (4) description of types of information that will be posted and regularly updated on a publicly available website such as GeoTracker; and
- m) Work schedule, including sampling activities and associated tasks.

This requirement for a Work Plan is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions, please contact Max Shahbazian of my staff at (510) 622-4824, or by e-mail (mshahbazian@waterboards.ca.gov).

Sincerely,



Digitally signed by Stephen Hill
Date: 2013.02.12 08:24:18
-08'00'

Bruce H. Wolfe
Executive Officer

Attachment: Water Code Section 13267 fact sheet
cc with attachment (via e-mail):

Ray Chavira (Chavira.Raymond@epamail.epa.gov) U.S. Environmental Protection Agency
Lynne Kilpatrick (lkilpatrick@ci.sunnyvale.ca.us) Sunnyvale Department of Public Safety
Avery Patton (avery.patton@amec.com) AMEC Geomatrix, Inc.
Parviz Vaghti (pvaghti@highridgepartners.com)
Geoffrey Taylor (sssunnyvale@sbcglobal.net)

San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised May 2012

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.